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THE  
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A T A  
COURT-MARTIAL,

Held on Board

His Majesty's Ship *London*,  
at C H A T H A M,

The 23d of September, 1745, and continued to be held by Adjournment, for ENQUIRING into the Conduct of Admiral Mathews, Vice-Admiral Lestock, and other Officers,

C H A R G E D

With Misconduct in the late *Action off Toulon*, in the *Mediterranean*, in *February, 1743*.

P A R T II.

Containing the T R I A L of Captain EDMUND WILLIAMS, who then commanded his Majesty's Ship *Royal-Oak*.

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L O N D O N:

Printed for M. COOPER, in Pater-noster-Row. 1745,

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Ship LONDON, Chatham, Octob. 10, 1745.

A T A

# COURT-MARTIAL,

This Day by Adjournment,

P R E S E N T,

Sir Chaloner Ogle, Admiral of the Blue, President,  
Perry Mayne, Esq; Rear-Admiral of the Blue, &c.  
Thomas Smith, Commodore,

Captain William Parry,  
Charles Windham,  
William Chambers,  
James Rentone,  
Robert Allen,  
Thomas Limeburner,  
Thomas Frankland,  
Sir William Hewet,  
Charles Coleby,  
Sheldrake Layton,  
Joseph Hamer,

Captain Sir Charles Molloy,  
\* Smith Callis,  
Geo. Bridges Rodney,  
Robert Erskine,  
John Pitman,  
Charles Catford,  
Edward Spragge,  
Robert Swainton,  
Hon. Archib. Stuart,  
George Elliot, and  
John Orme.

**T**HE President ordered the Marshal to bring in the Prisoner. Then,  
Captain Edmund Williams was brought into Court.  
The Members of the Court were sworn by the following Oath, administred to them by the Judge-Advocate.

“ You shall well and truly try and determine the Matter  
“ now before you, between our Sovereign Lord the  
“ King and the Prisoner to be tried. So help you  
“ God.”

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Then

\* Capt. Smith Callis, being distantly related to the Prisoner, desired to be excused setting, and withdrew.

Then the Charge against Captain *Edmund Williams* was read, setting forth,

*First*, That on the 11th of February, in the Year of our Lord One thousand seven hundred and forty-three, *Thomas Mathews*, Esq; was Admiral and Commander in Chief of his Majesty's Fleet in the Mediterranean Sea, and *Edmund Williams*, Esq; being then and there Captain and Commander of his Majesty's Ship *Royal-Oak*, and under the Command, and in the Division of the said Admiral; and the said *Thomas Mathews*, being in Sight and View of the Combined Fleets of the King of Spain, his Majesty's then declared Enemy, and the French King his Ally and Confederate, and the said Combined Fleet, (2) being very near, and in likelihood of an Engagement with his Majesty's said Fleet, the said *Thomas Mathews* did cause the proper Signal to be made to engage, and did then and there, with several of his Majesty's Ships under his Command, bear down upon, engage, and join Battle with his Majesty's said Enemy, and endeavour to take, fire, kill, and endamage the said Enemy; and the said *Edmund Williams* then having the Command of his Majesty's said Ship *Royal-Oak*, was in full Sight and View of the Signal to engage, as aforesaid, and in View of the said Engagement, and well knew the Duty required by the said Signal; and that by the Articles of War, his Majesty's Instructions and the Discipline of the Navy, it was his Duty to have done his utmost to take, fire, kill, and endamage his Majesty's said Enemies, as he might and ought to have done: But, instead thereof, withdrew or kept back from the Fight, and kept and continued, with his Majesty's said Ship under his Command, to Windward of his Station, in the Line of Battle, during all or the greatest Part of the said Engagement, notwithstanding it was in his power to have gone into his Station and engage with the said Ship under his Command, in Fight with his Majesty's said Enemies, in his Station, in the Line of Battle, as near as the said *Thomas Mathews* did, had he used the proper Methods for that purpose, and it was his Duty so to have done. Yet he kept and continued with the said Ship out of his Station, and above the Distance of Point-Blank Shot from his Majesty's said Enemies, during all or the greatest Part of the Engagement, in Breach of the *Articles*

Articles of War, his Majesty's Instructions, and the Commands of the Admiral aforesaid.

*Secondly*, That by the 20th Article of his Majesty's Fighting Instructions to his Commanders, it is expressly charged and commanded, to the Effect following, (*viz.* Every Commander is to take Care, that his Guns are not fired till he is sure he can reach the Enemy upon a Point-Blank) yet notwithstanding he, the said *Edmund Williams*, did, on the said 11th of *February*, fire, and cause to be fired at the Enemy several Guns, when the same were not in Reach of the Enemy upon a Point-Blank, nor even in (3) Reach of the Enemy on random Shot, in Breach of his Duty, and Violation of the Obedience due to his Majesty and his Instructions.

*Thirdly*, That, during the Engagement aforesaid, between Part of his Majesty's Fleet and the said Combined Fleet, his Majesty's Ships, *Namur* and *Marlborough*, were hard press'd, and the latter was disabled, having her Main and Mizen Masts shot away; and after she was so disabled, as aforesaid, continued for a considerable time engaged in Fight with his Majesty's Enemies, which he the said *Edmund Williams* saw: He, the said *Edmund Williams*, being then in Command, as aforesaid, and being a-tern and to windward of the *Marlborough*, and capable of yielding Assistance and Relief to his Majesty's said Ships, *Namur* and *Marlborough*, by going with his Majesty's Ship *Royal-Oak*, then under his Command, to their Assistance; which he might, and ought to have done; notwithstanding which, he, the said *Edmund Williams*, did not do his utmost to assist and relieve his Majesty's said Ships, but withdrew, and kept back with his Majesty's said Ship, under his Command, from the said Fight, or Engagement, and from the Assistance of his Majesty's said Ships, *Namur* and *Marlborough*, contrary to his Duty, and the Articles of War.

*Fourthly*, That the said *Edmund Williams* was, and is, guilty of Disobedience to his Majesty's Instructions, and the Signals and Commands of the Admiral, and Neglect of Naval Military Discipline, and of divers notorious Breaches of his Duty, as Captain and Commander of one of his Majesty's Ships of War, upon the said 11th Day of *February*, before and during the said Engagement of his Majesty's said Fleet, with the Combined Fleet of *France* and *Spain* in the *Mediterranean Sea*, as aforesaid, and

and was one of the principal Causes of the Miscarriage of his Majesty's said Fleet.

The Prisoner address'd himself to the Court ; Gentlemen, I must confess, this is a very heavy and severe Charge ; but, I hope, it is not all Fact that is alledged against me.— I shall not take up much time, but leave it to the Court.

The President said, Sir, you may depend upon it the Court will do you Justice.— The Prisoner answered, I am sure they will.

Capt. *Timothy Neucella*, late Lieutenant of the *Marlborough*, was called in, in support of the Charge. Being sworn, his Deposition was read, setting forth, That he was 2d Lieutenant of the *Marlborough*, on the 11th of February, 1743, which Ship was stationed as the second a-stern of Admiral *Mathews* : That in the Morning, Admiral *Mathews* made the Signal for the Line of Battle a-head — That Capt. *Williams* then commanded the *Royal-Oak* ; and that she was in View of the Signal ; and that the Combined Fleet was then about two or three Miles distant from the Center of his Majesty's Fleet — That about eleven the Signal was made to engage ; and about one, the *Namur* and *Marlborough* bore down and engaged the *Real*, and her Second a-stern ; and that the *Rupert* and *Royal-Oak* did not bear down so near as the *Namur* and *Marlborough* did, nor near enough to be within Point-Blank ; and that from the Beginning of the Engagement, till five in the Afternoon, the *Rupert* and *Royal-Oak* were to Windward of the Line ; that the *Royal-Oak* was further to Leeward, in the beginning, than any of the other Ships ; and that there were no Ships for the *Rupert* and *Royal-Oak* properly to engage. — That a great many Guns were fired by the *Rupert* and *Royal-Oak*, at too great a Distance ; that the *Namur* and *Marlborough*, were hard press'd by the Enemy ; the *Marlborough* had her Main and Mizen Masts shot away ; that the *Rupert* and *Royal-Oak* were in Sight of the *Marlborough*'s Distress, and capable of yielding her Assistance ; but neither of them bore down to assist her. That about four the *Ann-Galley* Fire-ship bore down, and was not covered by any of the other Ships ; and that the *Rupert* and *Royal-Oak* might have done that Service, if their Commanders had thought proper.

*Then the Court asked.] Q.* Was the *Royal-Oak* in the Line, when the *Namur* began to engage ?

*A.* I can't tell ; I did not see her then ; when I saw her, she made a small Angle with us.

Q. Where was you quartered?  
 A. Upon the lower Gun-Deck.

Q. Was the *Royal-Oak* to Leeward of the three other Ships a-stern?  
 A. Yes.

Q. What Time did you see her?  
 A. Once before she came down.

Q. Did you ever see the *Royal-Oak* engage?  
 A. I saw her fire some Guns; but I think not within the Reach of Point-Blank, she was at too great a Distance.

Q. In the first Part of the Engagement, was there any Ship for the *Royal-Oak* to engage with?  
 A. The five sternmost Ships were not come up: they did not come up till two or three Hours after the Beginning.

Q. What Ship could she then engage with?  
 A. The 2d or 3d Ship a-stern of the *Spanish* Admiral.

Q. What Ships were a-stern of the *Spanish* Admiral?  
 A. Six. Five at a great Distance.

Q. What Number were in a Line with the *Spanish* Admiral?  
 A. Only one.

Q. When you saw the *Royal-Oak* fire, what Ship did she fire at?  
 A. The 2d or 3d Ship from the *Spanish* Admiral.

Q. Was it in the latter Part of the Engagement?  
 A. Yes, two Hours after we began; she might fire before that, and I believe she did.

Q. Was she in a Line with the Admiral, when you first saw her?  
 A. She was a little upon our Weather Quarter.

Q. Was she in a Line with the Admiral, at his first engaging?  
 A. I did not see her.

Q. Was the *Royal-Oak* ever in a Line with you?  
 A. No.

Q. Was you in a Line with the Admiral at first?  
 A. When we first brought to, the Admiral was as near in a Line as could be; he was rather upon our Weather-Bow.

Q. When you saw the *Royal-Oak*, was it in her power to engage closely?  
 A. She must have gone to Leeward of the other Ships if she had.

Q. Could the *Royal-Oak* have engaged any Ships closely without going to Leeward of the *Marlborough*?  
 A. If she had bore down in a Line with us at the first, he might afterwards have engaged properly with the other *Spanish* Ships that were coming up.

Q. When the *Royal-Oak* engaged, was it in her power to have engaged in a Line with you?  
 A. I believe she might.

Q. Was you in a proper Line with the Admiral?  
 A. Yes, as exactly as could be.

Q. Was it in the Power of the *Royal-Oak* to give the *Marlborough* any Assistance?

A. If she had crowded a-head, she might have lain upon our Quarter, and given us Assistance.

Q. How far was the *Royal-Oak* from you, when you first lost your Masts?

A. I saw her a little after we lost our Masts; and she was then a Mile and half from us.

Q. Could you see what Sail she had set?

A. I could, but did not observe.

Q. Did you see any Number of Shot from the *Royal-Oak* fall short? A. No.

Q. How do you know she was not within Point-Blank?

A. I judge only by the Distance of the Ships, and she did not appear to be near enough.

Q. At what Distance was the *Royal-Oak* from the Ship she might have engaged?

A. If she had made proper Sail, and shot a-head those Ships between her and us, she might have given us the proper Assistance by engaging the *Hercules*.

Q. At what Distance was the *Royal-Oak* from you, when you saw her? A. A Mile and half, or two Miles.

Q. Was there any Wind then? A. Yes.

B. Was there enough for a Ship to answer her Helm?

A. Yes.

Q. Did she never edge down after you first saw her?

A. I did not see that she did, till after the Admiral wore.

Q. Did she appear to be at Windward or to Leeward of the three Ships between you and her?

A. I think she appeared to Leeward of the three; she was a Mile and half from us, and a-stern with all.

Q. How much upon your Quarter? A. Two Points.

Q. How many Points was the Admiral upon your Bow?

A. One Point.

Q. Which of the four Ships a-stern then appeared to be most in a Line with the Admiral?

A. The *Royal-Oak* was the Leewardmost of all, she was almost in the Line.

Q. Was the *Royal-Oak* never nearer you than a Mile and half?

A. I believe not till they all bore away — but I cannot be exact as to the Distance.

Q. Did you see the *Royal-Oak* how she engaged?

A. I did not see her engaged till after the Wearing.

Q. How long did you see the *Royal-Oak* in the whole?

A. Two Hours and a half from the first I saw her.

Q. Did you never see her out of your Stern Ports ?

A. Yes, before we lost our Masts.

Q. How near was the *Royal-Oak* to the second a-stern of the Spanish Admiral then. A. Half a Mile, or something less.

Q. What Ship did she fire at ?

A. I believe it was at the *Hercules* ; but I could not see plainly.

Then the Prisoner asked.] Q. Did not the *Royal-Oak* go to Leeward of you before the Wearing ?

A. Not to my Knowledge, but I can't say she was not.

Then the Prisoner said, It is a remarkable thing, because you gave us three Cheers.

Then the Witness said, I do remember it now Captain *Williams* mentions it, that he was then to Leeward of us just after our Masts were gone : It was before we wore ; but I had forgot it.

Q. Was it before the Wearing ? A. Yes.

The Court asked.] Q. Had the *Real* bore away then ?

A. Yes.

Q. Are you positive it was after the *Real* bore away ?

A. I think she was bore away.

Then the Prisoner said, there is a Gentleman just come to Town, that was a Lieutenant in the *Marlborough* ; and if Capt. *Neucella* does not remember it, perhaps he may.

The Court said he should be called presently.

Then the Judge Advocate told the Court, that Lieutenant *Hale*, of the *Marlborough*, was just come home, and if the Court pleased, he might be called. And he came into Court accordingly.

Lieutenant *Hale* came into Court, and was sworn.

The Court asked.] Q. Where was you quartered ?

A. Upon the middle Gun-Deck.

The Court desired him to relate what he knew relating to the *Royal-Oak*.

Witness said, I know very little of her at the beginning. Soon after the Admiral ordered us to bear down ; I went down to my Quarters, when our Masts were gone I went upon Deck, then I saw the *Royal-Oak* to Leeward of the rest of our Ships a-stern of the *Marlborough*.

Q. Was this after your Masts were gone ? A. Yes.

Q. Is that all you know ? A. Yes.

Q. What Distance was she from you then ?

A. She was upon our Weather Quarter, about half a Mile from us then.

Q. How near was the Enemies Ships ?

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A.

*A.* Within Point-blank of those Ships a-stern of us, that were coming up.

*Q.* Which of 'em did she fire at? *A.* The Head most.

*Q.* Within Point-blank? *A.* Yes.

*Q.* How long did she engage her?

*A.* I cannot tell, they were firing before I came upon Deck.

*Q.* How long did she engage from the Time you saw her?

*A.* Three Quarters of an Hour, after the Time I saw her.

*Q.* What made her leave off?

*A.* She was engaging when I left the Ship, and went on Board of the Admiral, I did not observe what she was doing after that.

*Q.* When you first observed the *Royal-Oak*, how many Ships were between you and her?

*A.* There were Three between us, there were some of 'em further off than the *Royal-Oak*: The *Essex* was further off.

*Q.* Was the *Royal-Oak* to Leeward of all those Ships?

*A.* Yes, she was to Leeward of all the Four Sail.

*Q.* Then there was hardly Room for the other Ships, if she was within half a Mile of you?

*A.* The others were further to Windward.

*Q.* Was the *Royal-Oak*, when you saw her, as far to Leeward as the Admiral, when she began to engage?

*A.* I think she was.

*Q.* Did you ever observe any Signals, besides that for the Line of Battle, and that to engage, after your Masts were gone?

*A.* There was a Signal in the Morning for the Vice-Admiral to make more Sail; and after our Masts were gone, the Signal for Battle was haul'd down, and a white Flag was hoisted at the Fore-Topmast Head, and a Gun was fired.

*Q.* When was this?

*A.* It was when I went to seek for the Frigates to assist us.

*Q.* What Time of the Day was it?

*A.* It was about Sun-sett; it was after we wore.

*Q.* Did you ever see the *Royal-Oak* to Leeward of your Ship? *A.* I cannot say I did.

*Q.* Do you remember her being cheer'd by you?

*A.* No: I was not on Board then.

*Q.* When you saw her; what Position was the Enemy from her?

*A.* Some of 'em were a-stern upon her Quarter, and two Shot abreast of her.

*Q.* How near was the *Royal-Oak* then to the Enemy?

*A.* Those which she fired at, she was within Gun-shot of: I saw their Shot go over her. *Q.*

Q. If the *Royal-Oak* had gone nearer, when you saw her, must not she have broke the Line?

A. Yes : She must have been to Leeward of us ; and to Leeward of the Line.

Q. How was the Admiral from you then ?

A. Upon our Weather-bow.

Q. How much upon your Weather-bow ?

A. Two Points.

Q. At what distance ? A. Half a Mile.

Q. How long did the *Royal-Oak*, engage within Point-blank, before the Admiral wore ?

A. I was gone before the Admiral wore : she was then engaging.

Q. How long was you cheer'd at first by the *Royal-Oak*, before the Engagement began ?

A. An Hour and half, or Two Hours.

Q. How long did you see the *Royal-Oak* engaging ?

A. I am very sure Three Quarters of an Hour.

Q. Was she near enough to do sufficient Execution ?

A. She was within Point-blank, I saw the Shot from the Enemy go over her.

Q. What distance was she from the Ship she engaged ?

A. I do not remember how many Cables length : I believe Three Quarters of a Mile ; I saw the Shot go over her.

Q. Why do you think she was within Point-blank ?

A. Because I saw the Shot go over her.

Q. Did any Shot from the Enemy fall short of her ?

A. No : I never did see any.

Q. Was you engaging then ?

A. The *Real* was then upon our Bow, and we could not bring our Guns to bear upon her.

Q. Where was the *Namur* then ?

A. To Windward of us, engaging the *Real*.

Q. What was the *Hercules* doing then ?

A. The *Hercules* was firing at us, and we at her : but could not bring our Guns to bear upon the *Real*.

Q. Did you receive much Damage from the *Hercules* ?

A. I believe most of the Damage we received, was from the *Hercules*.

Then *Juan Baptista*, Pilot of the *Malborough*, was called in. His Deposition read, setting forth, that he was Pilot of the *Marlborough*, the Ship stationed next a-stern of the Admiral, on the 11th of February, 1743. That about Nine or Ten the Signals was made, for the Line of Battle, a-head : That the *Rupert*, was in sight of the Signal, that about Half an Hour past Ten, the Signal was made to engage, and that about One, the *Namur* and

*Marlborough* bore down, and engaged the *Real*, and her Second a-stern. That at the beginning, and during the whole Engagement, the *Rupert* and *Royal-Oak* were out of Point-Blank. That the *Marlborough* was disabled, having her Main and Mizen Masts shot away ; and that the *Essex*, *Rupert*, and *Royal-Oak* were capable of giving her Assistance, but did not. That the *Anne-Galley* Fire-ship bore down between 3 and 4 ; and that the *Essex*, *Rupert*, and *Royal-Oak* might have covered her. That if any of the four Ships a-stern of the *Marlborough* had bore down to succour her, they might have done it, and might have stopped the sternmost of the Spanish Ships from getting a-head, till the Vice-Admiral, and his Division, could have got up.

*Then the Court asked.]* Q. Did you ever see the *Royal-Oak* engage the Enemy ?

A. After we had done engaging, I saw a Ship more to Leeward, than any of the others a-stern, and believe it was the *Royal-Oak* hailed us, cheered us, and came to Leeward of us.

Q. Was the *Royal-Oak* then within Point-Blank ?

A. The Shot fell short of her at first.

Q. Was the *Royal-Oak* within Point-Blank before you lost your Masts ?

A. I cannot tell whether she was within Point-Blank.

Q. How near was the *Royal-Oak* at the nearest ?

A. Within half a Mile.

Q. Did you see the *Royal-Oak* fire after you lost your Masts ? A. Yes.

Q. If the *Royal-Oak* had bore down, and engaged the four Ships of the Enemy that were coming up closely, would not she have been to Leeward of the Line ?

A. Yes, because those Ships were to Leeward of the *Real*.

Q. Was she near enough to do Execution ?

A. Yes, in the latter Part of the Action, after we had done engaging.

Q. Did she make all the Sail she could from her first coming into the Fleet ? A. She was in the Line.

Q. Could the *Royal-Oak* have bore down sooner than she did ? A. Yes, all the Ships a-stern of us might.

Q. What Ship could she have engaged then ?

A. The *Hercules*, or the headmost of the four Ships that were coming up.

Q. What Distance was the headmost of the Spanish Ships from the *Royal-Oak* then ?

A. I cannot say she was not far from them ; if she had bore away she might have attacked them, or the Ship a-stern the *Spanish* Admiral that plagued us.

Q. What distance was the headmost of the four *Spanish* Ships coming up from you at the beginning ?

A. At a great distance, 2 Miles and half a-stern, and to Leeward upon our Lee-Quarter.

Q. What Distance was the *Royal-Oak* then ?

A. She was the sternmost of the four that were a-stern of us.

Q. Was the *Royal-Oak* within Gun-shot of the Enemy then ? A. No.

Q. Could she have gone within Gun-shot without going to Leeward of the Line ?

A. Yes, if she had bore down with us she might.

Q. What Distance was the *Royal-Oak* from you, when she engaged ? A. I cannot tell exactly.

Q. What Ship was nearest you, when you lost your Masts ?

A. The two middle Ships were.

Q. Did you, when you lost your Masts, look at the Admiral ? A. Yes.

Q. Where was he then ?

A. Till we lost our Masts, he was to the South-East upon our Weather-Bow.

Q. Did you observe any Signal the Admiral had out then, besides that for the Line of Battle, and to engage ? A. No.

Q. Could the *Royal-Oak* have given you any Succour, if she had bore down properly. A. Yes.

Q. Could she have bore down ?

A. There was Wind enough for them all to come up.

Q. Was the *Royal-Oak* in her Station at the beginning ?

A. Yes.

Q. If all the four Ships had bore down, would the *Spanish* Ships coming up have weathered them ?

A. No, I believe not.

Q. How long were you engaged before you saw the *Royal-Oak* ?

A. I saw her just after we had lost our Masts.

Q. Did she fire before that ? A. I cannot tell.

Q. Did you see any Ships she could have fired at ?

A. No. After our Masts were gone I could not see any Ships.

Q. How long did the *Royal-Oak* engage ?

A. I don't know.

Q. Did the *Royal-Oak* escape within Point-Blank of the Enemy ?

A.

*A.* Their Shot could reach one another very well.  
Then Lieutenant *Hide*, of the *Marlborough*, was called in and sworn, and asked by the Court.

*Q.* Where was you quartered ?

*A.* Upon the upper Deck.

Then his Deposition was read, setting forth, That, between 9 and 10, the Signal was made for the Line of Battle a-head ; that about 1, the Admiral and *Marlborough* bore down and engaged ; soon after the *Marlborough* was disabled, the *Namur* and *Norfolk* were then engaged with the Enemy ; that the *Rupert* and *Royal-Oak*, might have assisted the *Marlborough*, but did not ; that the *Ann-Galley* Fireship bore down, and that the *Rupert* and *Royal-Oak* might have cover'd her, but did not.

*Then the Court asked.] Q.* Was the *Royal-Oak* within Point-Blank ?

*A.* I cannot tell all the Ships a-stern of us were to Windward.

*Q.* Was it ever in the *Royal-Oak*'s power to have engaged the Enemy ? *A.* I cannot say.

*Q.* Where was the *Royal-Oak* when you began to engage ?

*A.* They were all to Windward. I did not mind her particularly.

*Q.* How many of our Ships were a-stern of you ?

*A.* The *Dorsetshire*, *Essex*, *Rupert*, and *Royal-Oak*.

*Q.* Might any of them have bore down and engaged as well as you ?

*A.* I cannot say there was Wind enough.

*Q.* Could not they then have bore down ?

*A.* I think they might.

*Q.* Did you ever see the *Royal-Oak* engaged with the Enemy ? *A.* No.

*Q.* Was the *Royal-Oak* firing when you saw her ?

*Q.* I never saw her fire.

*Q.* How far was the *Royal-Oak* from the *Marlborough* ?

*A.* I cannot say.

*Humphry St. Hill*, Mate of the *Marlborough*, was called in, and sworn, the Court asked :

*Q.* Where was you quartered ?

*A.* At the Braces forwards.

Then his Deposition was read, setting forth, That on the 11th of February 1743, he was Mate of the *Marlborough* : That in the Morning a Signal was made for the Line of Battle a-head : That Captain *Williams* commanded

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manded the *Royal-Oak*, and Captain *Ambrose* the *Rupert*; that the Combined Fleet was about three or four Miles Distance from our Centre, when the said Signal was made; that about 11 the Signal was made to engage, and about 1 the *Namur* and *Marlborough* bore down and engaged the *Real* and *Hercules*; that the *Rupert* and *Royal-Oak* bore down, but not so near as they ought to have done, as there was Wind enough.

*Then the Court asked.] Q.* What Ship could the *Royal-Oak* have engaged, if she had bore down in your Wake?

*A.* The second, the headmost of the 5 Sail a-stern of the Spanish Admiral.

*Q.* Was she within Gun-shot at first? *A.* I think not.

*Q.* If the *Royal-Oak* had bore down in your Wake, could she have assisted you against the *Hercules*. *A.* Yes.

*Q.* Did you receive any Damage from the *Hercules*?

*A.* Yes, a good deal.

*Q.* Therefore, if the *Royal-Oak* had bore down, she might have assisted? *A.* Yes.

*Q.* Did you see the *Royal-Oak* engage? *A.* Yes.

*Q.* At what Distance? *A.* I cannot say.

*Q.* After your Masts were gone, could she have gone nearer without breaking the Line?

*A.* I believe not; the four Ships a-stern would have fetch'd into the *Marlborough*'s Wake.

*Q.* Was she in a Line with you? *A.* No.

*Q.* Did the Admiral haul off first?

*A.* The Admiral said to our Captain, Do you bear down, and I will follow you. — The Admiral fired a Quarter-Deck Shot, and after half an Hour the Admiral hauled his Wind, and broke the Line.

*Q.* What Distance was the *Royal-Oak* from you at the first beginning? *A.* Two or three Miles.

*Q.* How far was the headmost of the Spanish Ships from you then? *A.* Two or three Miles.

*Q.* Was the *Royal-Oak* the Leewardmost of the four Ships a-stern of you? *A.* I cannot say.

*Q.* Did you ever observe any Signal made by the Admiral after the *Marlborough*'s Masts were gone, besides the Signal to engage? *A.* No.

*Q.* Do you think the *Royal-Oak* was within Point-Blank when she fired? *A.* I cannot say.

*Q.* Did you see any Shot fly over her?

*A.* No, I saw her Smoke.

*Q.* Did you observe how long she engaged? *A.* No.

*Q.*

Q. When you saw her Smoke, was she at the proper Distance to engage the Enemy ?

A. No, I cannot say, but I think not.

Q. Whether was the *Royal-Oak* or the *Rupert* at the greatest Distance ? A. I cannot say.

Q. Did you never see the *Royal-Oak* engaging properly ?

A. No.

Q. Did the *Royal-Oak* go to Leeward of you after your Masts were gone ? A. I cannot say.

Q. Do you remember any thing of any Cheers from the *Royal-Oak* ? A. No.

Q. When you lost your Masts, which of the four Ships a-stern was nearest you ? A. The *Dorsetshire*.

Q. What Time of the Day did you see the *Royal-Oak* fire ?

A. It was after two, and after our Masts were gone ; when the Masts went away, I saw two Ships a-stern fire at the Ships coming up, and I looked out to see which, and believe it was the *Royal-Oak* and *Rupert*.

Q. What Time did you see the *Royal-Oak* last ?

A. Never after that Time.

*Then the Prisoner asked.]* Q. Did you see the *Dorsetshire*, *Essex*, or *Rupert* firing at the Time you say I could have come down ?

A. About two I saw the *Dorsetshire*, and believe you were firing.

Q. If I had gone down, should not I have gone through their Fire ? A. I cannot say.

*Richard Hamilton*, Boatswain of the *Namur*, called in, and sworn, and his Deposition read, setting forth, That he was Boatswain of the *Namur* on the 11th of February 1743 ; that in the Morning the Signal was made to engage ; that Admiral *Mathews* and *Rowley* bore and engaged the Enemy ; that the *Essex*, *Rupert*, and *Royal-Oak* were stationed a-stern of the *Marlborough* ; that the *Rupert* and *Royal-Oak* bore down within Point-Blank, during Part of the Engagement ; but they kept to Windward of the *Namur* till the Evening ; that the *Namur* and *Marlborough* were hard pressed by the Enemy, and the *Marlborough* lost her Masts ; that the *Rupert* and *Royal-Oak* might have assisted her, but did not.

*Then the Court asked.]* Q. Was the *Royal-Oak* never in the Line ?

A. She came along-side of us about 10 in the Morning, and I never saw her afterwards,

Then

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